IN THE HIGH COURT OF UTTARANCHAL

AT NAINITAL
Writ Petition No. 798 of 2005 (S/S)

1. Kamla Dasela
W/o Chanchal Singh Dasela
Presently posted as Assistant Teacher
Primary School – Khairoli,
Gangolight,
Distt – Pithoragarh

2. Vimla Mehta
D/o Hayat Singh Mehta
Presently posted as Assistant Teacher
Primary School-Karela,
Topara, Dhar Thal, Didihat
District - Pithoragarh …Petitioners

Versus

1. State of Uttaranchal
through Secretary, Basic Education,
Uttaranchal Shasan, Dehradun

2. Director of Basic Education
Uttaranchal Shasan, Dehradun

3. Basic Shiksha Adhikari, Pithoragarh …Respondents

Sri K.N. Joshi, learned counsel for the petitioners,
Sri Paresh Tripathi, learned Standing Counsel for the respondents.

Hon'ble B.C. Kandpal, J.

By way of this Writ Petition, a direction has been sought in the nature of mandamus commanding the respondents to make the payment of salary to the petitioners including other admissible allowances from the date of appointment as shown in the advertisement / appointment notification dated 02.02.1993 (annexure- 1 to this writ petition). Another direction has also been sought in the nature of mandamus directing the respondents to make the payment of salary to the petitioners as trained scale like other teachers

who have been appointed in pursuance of the advertisement / appointment notification dated 02.02.1993.

Brief facts giving rise to this writ petition are that the petitioners are presently posted as Assistant Teacher Primary Schools. The Basic Shiksha Adhikari, Pithoragarh issued an advertisement on 02.02.1993 with regard to make appointment on the post of Assistant Teacher in B.T.C. pay scale Rs. 1100-1710 including other admissible allowances for the teacher in primary schools. The qualification with regard to the appointment of the aforesaid post for the Assistant Teacher was C.P.Ed / C.T. training and in pursuance of the aforesaid interview held on 15.03.1993 by Basic Shiksha Adhikari, the qualified candidates were given appointment on the post of Assistant Teacher for primary schools. At the time of making the aforesaid appointment, the persons holding qualification of C.P.Ed. from Amrawati were not accepted and not given appointment. Hence, several persons approached the Hon'ble High Court of Allahabad under Article 226 of the Constitution for issuing direction to accept their candidature.

The Hon'ble Allahabad High Court directed the respondents to appoint qualified candidates on the post of the Assistant Teacher, hence, the petitioners were also appointed on the post of Assistant Teacher on 18.03.1996. The petitioners are thereafter working continuously on the post of Assistant Teacher.

On 01.01.1993 Director of Education Basic Shiksha Parishad issued letter to Basic Shiksha Adhikari directing them to appoint C.P.Ed. candidates like C.T. and C.P.Ed teacher to be treated equivalent to the C.T. trained teacher.

The petition further reveals that similar other teachers who are qualified like the petitioners are working on the same

post and discharging same duties are being paid salary of Rs. 1100-1710 (revised time to time) where the petitioners are being paid only Rs. 850/- p.m. It has been averred that the petitioners have made various efforts but all in vain. It has also been averred in the writ petition that similar controversy arose in writ petition no. 1243 of 2001 (S/S) Dinesh Singh Rawat and others Vs. State and others and the court was pleased to allow the writ petition with the direction to the respondents to give pay difference to the petitioners from initial date of appointment. Hence the petitioners have also filed this writ petition for issuing the direction to the respondents to make the payment of salary to the petitioners with the pay scale of Rs. 1100-1710 (revised time to time) including other admissible allowance from the date of appointment.

Heard learned counsel for the petitioners as well as learned Standing Counsel and perused the record.

As per the submission advanced by the learned counsel for the petitioners, the appointment was made in pursuance to the advertisement issued by the respondents in the year 1993 and some of the persons who were appointed in pursuance of the same advertisement are being paid regular pay scale from their initial appointment, therefore, in case, if the petitioners are having equal qualifications as well as discharging the same duties, are also entitle to get the same pay scale.

Learned counsel for the petitioners has also invited my attention towards the annexure 8 to the writ petition which is a letter issued by the Education Director Uttaranchal, Dehradun to the District Basic Shiksha Adhikari, Pithoragarh directing therein that the 42 Assistant Teachers posted in different primary schools should be paid difference of pay.

This letter has been issued by the Director of Education to his subordinates in compliance of the order passed by the High Court during the pendency of the Contempt Petition.

In the light of the aforesaid letter as well as the judgment passed by this court which has been quoted earlier, I think that this writ petition is also to be allowed.

With the result, the respondents are directed to pay differences of pay to the petitioners within a period of six weeks from the date of production of certified copy of this order.

No order as to costs.

With these observations, the writ petition is finally disposed of.

(B.C. Kandpal, J.)

23rd June, 2005
Shiv